IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE THIRD DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT:**THE HON'BLE MRS JUSTICE T.MEENA KUMARI**

&
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT APPEAL No: 138 of 2005

(Writ Appeal filed under Clause 15 of Letters Patent against the Order dated 14-10-2004 in W.P.No. 9758 of 2004 on the file of the High Court)

Between:

1. The Senior Deputy Director General (Electrical), Corporate Office, BSNL, New Delhi.
2. The Chief General Manager, BSNL, AP, Hyderabad.
3. The Principal General Manager, Telecom District, Hyderabad, AP
4. The Principal Chief Engineer(E), BSNL, Electrical Zone, Hyderbad
5. The Superintendent Engineer (E), BSNL, Nampally, Hyderabad.

Appellants

And

Smt B. Rukmini, W/o. Sri B. Bhimaiah, O/o. Supdt. Engineer, BSNL, Electrical Zone, 5-8-363, Chirag Ali Lane, Abids, Hyderabad.

Respondent

Counsel for the appellants : Mr. R.S.Murthy

Counsel for the Respondent : Mr. Krishna Devam

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The Court delivered the following:

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JUDGMENT:(per Hon'ble Smt. justice T.Meena Kumari)

This writ appeal is filed by the Bharatiya Sanchara Nigam Limited-appellant herein aggrieved by the common order in W.P.No: 10779, 10885, 10886, 10901 and 9758 of 2004, dated 14.10.2004, under which the learned single Judge allowed the writ petitions to the extent indicated therein.

The B.S.N.L. authorities are the appellants herein. The respondent in the writ appeal is the writ petitioner in W.P.No.9758 of 2004. She filed the writ petition seeking a writ of mandamus by declaring that the action of the appellants in rejecting the claim for conversion of the petitioner into full time casual labourer, (2) for grant of temporary status, (3) to declare that the termination of the services of the petitioner by the appellants by shifting to contractors without any valid reason, notice or at least an order in writing, as arbitrary and violative of Article 14, 16 and 21 of the Constitution of India and to set aside the same and to direct the appellants to convert the petitioner into full time casual labour and to re engage her along with consequential benefits.

The learned single Judge having held that the part time casual labourers who worked in the appellants-company as on 1.8.1998 and who have completed 240 days preceding 1.8.1998, are entitled to be included in the scheme for grant of temporary status and since the petitioners continuously worked as part time casual labourers as on 1.8.1998 for more than 240 days, they shall be converted as full time casual labour and conferred temporary status as such, allowed the writ petitions.

Heard the learned counsel on either side.

Relying upon the judgment of the Apex Court reported in WORKMEN OF NILGIRI CO OPERATIVE MARKETING SOCIETIES LTD. V. STATE OF TAMILNADU & OTHERS (), it is contended by the learned counsel for the appellants-company that the writ petitioner is only the contract labourer, but not the casual labourer and as such, she is not entitled for any relief. But, however, the letter dated 27.9.2002 addressed by the 4th respondent-appellant to the 1st respondent-appellant discloses that the details as to the full time and part time casual labourers who were working under B.S.N.L., Electrical Zone, Hyderabad were enclosed by mentioning that all those casual labourers were working in the unit prior to issue of the ban order dated 12.2.1999 and the name of the petitioner has been figured in that annexure showing that she is working for three to four hours and so far as the mode of payment is concerned, the same was made by the Contractors and therefore, she cannot be considered for regularisation. It is further argued that those who have completed 10 years, are only entitled for conferment of temporary status and hence, the writ petitioner is not entitled for any conferment of temporary status as directed by the learned single Judge.

On the other hand, placing reliance on the proceedings of the Department of Telecommunication Services, dated 29.9.2000 to all the CGMs., in the circles and Telephone Districts and all Heads of other Administrative Officers and all the I.F.A's in Telecom. Circles/Districts and other Administrative Units, it is contended by the learned counsel for the writ petitioner that certain guidelines have been issued to regularize all the casual labourers working in the Department, including those who have been granted temporary status, with effect from 1.10.2000 in the following order:

1.All casual labourers who have been granted temporary status upto the issuance of orders No:269-4/93-STN-II, dated 12.2.1999, circulated vide letter dated

269-13/99/STN –II, dated 12.2.1999 and further vide letter No:269-13/99-STN-II, dated 9.6.2000.

2.All Full time casual labourers as indicated in annexture.

3.All Part time casual labourers who were working for four or more hours per day and converted into full time casual labourers vide letter No:269-13/99-STN-II, dated 16.9.1999.

4.All part time casual labourers who were working for less than four hours per day and were converted into full time casual labourers vide letter No:269-13/99-STN-II, dated 25.8.2000.

5.All Ayas and Supervisors converted into full time casual labourers as per order No:269-10/97-STN-II, dated 29.9.2000.

It is contended by the learned counsel for the writ petitioner that the name of the writ petitioner has not been included in the annexure enclosed to the above instructions even though she has been working since 1991 onwards for the reasons best known to the appellant-Company. It is further contended that it is clearly mentioned in the said order that if there are any cases of the labourers left over due to any reason, they may be referred to the Headquarters separately. It is further contended that in spite of the said instructions, the Department has not acted upon the same even though the cases of the petitioner falls under the left over cases.

At this juncture, it is submitted by the learned standing counsel for the appellant that there is a ban imposed by the Central Government and that she has to complete 10 years of service for regularization as casual labourers. But, however, with reference to the ban, it has to be observed that there is a scheme in existence and the name of the petitioner has not been included in the scheme and they cannot claim the regularization or conferment of temporary status as a matter of right.

We have perused the order of the learned single Judge and the material available on record.

As could be seen from the letter of the 4th respondent-appellant, dated 27.9.2002, it is apparent that there are sufficient number of vacancies in the group-D available to accommodate all those casual labourers. Pursuant to the letter of the 2nd respondent-appellant in E.A/STB/20-2/Corr/2000/3, dated 29.9.2000 instructing

to call for the names of the persons who are working for more than four hours in the prescribed proforma from the General Managers of the Telecom District, Hyderabad and other S.S.A. units, the concerned authorities submitted the required information relating to the respective Zones, but the name of the petitioner was not considered. But, on the representation, her cases was rejected on the ground that she is a contract labour.

In a Judgment of the Apex Court as relied on by the learned single Judge, reported in UNION OF INDIA V. MOHAN PAL (), it is held that the scheme of 1993 provides that a casual labour who has completed 240 days of working in a year would be entitled to temporary status. The conferment of temporary status is to be given to the casual labourers who were in employment as on the date of commencement of the scheme and it cannot be treated as an ongoing scheme.

It is not out of place to refer to the letter issued by the 4th respondent-appellant in MOG/12022/1/BSNLEZH/2002/606,

dated 27.9.1992 addressed to the 1st respondent-appellant wherein it is requested to examine the cases of casual labour on the ground that sufficient number of vacancies in the grade of group D are available under this Zone to accommodate all these casual labours. On a perusal of this letter, it can be said that the cases of the petitioner will come under the purview of this letter for consideration of her case as to the regularization.

In the instant case, as rightly observed by the learned single Judge, the petitioner has continuously worked as part time casual labourer as on 1.8.1998 for more than 240 days as required under the scheme and therefore, they are eligible to be considered for conferring temporary status.

In the facts and circumstances of the case and in view of the circulars issued by the appellant and in view of the fact that the petitioner has fulfilled the requirement as enunciated under the scheme and in the light of the principles laid down by the Apex Court in the citation (2nd supra), We have no hesitation to hold that the order of the learned single Judge holding that the part time casual labourers who worked in the appellants-company as on 1.8.1998 and who have completed 240 days immediately preceding 1.8.1998 are entitled to be included in the scheme for granting of temporary status, would not warrant any interference by this Court and

as such, this appeal is devoid of merit. However, We make it clear that the order impugned shall be confined to the extent of the case of the petitioner.

Accordingly, this writ appeal is dismissed confirming the order of the learned single Judge.

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Justice T.Meenakumari

3rd February, 2005

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justice S.Ananda Reddy

Kvrk/Gurc

Copies to

1 The Senior Deputy Director General (Electrical), Corporate Office, BSNL, New Delhi.
2 The Chief General Manager, BSNL, A.P. Hyderabad.
3 The Principal General Manager, Telecom District, Hdyerabad, A.P.
4 The Prl. Chief Engineer (E), BSNL, Electrical Zone, Hyderabad.
5 The Supdt. Engineer (E), BSNL, Nampally, Hyderabad.
6. Two C.D copies.

HONOURABLE SMT. JUSTICE T.MEENAKUMARI

&

HONOURABLE SRI JUSTICE S.ANANDA REDDY

WRIT APPEAL Nos: 138 of 2005

(judgment delivered by Smt.Justice T.Meena Kumari)

3rd February 2005